



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

TAL
Docket No: 1168-14
27 February 2015

5 U.S.C 552(b) (6)

Dear 5 U.S.C 552(b) (6)

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 February 2015. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps and began a period of active duty on 24 October 1989. You served for six years and 10 months without disciplinary incident, but on 16 August 1996, you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and two periods of unauthorized absence (UA), totaling four day. On 9 May 1997, you were convicted by special court-martial (SPCM) of UA from your unit for a period of 81 days. The sentence imposed was confinement, a reduction in paygrade and a bad conduct discharge (BCD). On 26 June 1998, you received the BCD after appellate review was complete.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to upgrade your discharge and assertion that your actions were due to depression. Nevertheless, the Board found that these factors were not sufficient to warrant relief in your case because of the seriousness of your misconduct. Regarding your assertion of suffering from depression, the Board noted that

you did not provide a diagnosis and that the severity of your misconduct outweighed the mitigation of your possible diagnosis. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

5 U.S.C 552(b) (6)

A large black rectangular redaction box covers the signature area. The text "5 U.S.C 552(b) (6)" is printed in red above the box.

ROBERT J. O'NEILL
Executive Director